

Exhibit B

PUBLIC

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of)
The Kroger Company,) Docket No. 9428
and)
Albertsons Companies, Inc.,)
Respondents.)

**ORDER GRANTING JOINT MOTION TO CONTINUE THE RECESS OF THE
EVIDENTIARY PORTION OF THE PART 3 ADMINISTRATIVE HEARING**

I.

Pursuant to 16 C.F.R. § 3.41(b), Federal Trade Commission (“FTC”) Complaint Counsel and Respondents The Kroger Company and Albertsons Companies, Inc. (“Respondents,” together with Complaint Counsel, “the Parties”) filed a joint motion to extend the current recess in this case until 21 days after the final resolution of the related federal preliminary injunction case captioned *FTC, et al. v. Kroger Co. and Albertsons Cos.*, No 3:24-cv-00347-AN (D. Or.) (“Joint Motion”). For the reasons set forth below, the Joint Motion is **GRANTED**.

II.

By Order issued July 12, 2024 (“July 12 Order”), the Part 3 hearing was scheduled to convene on July 31, 2024 and then to recess until after the completion of the federal district court preliminary injunction hearing. The July 12 Order also required the Parties to propose a schedule for resuming the Part 3 hearing after the conclusion of the federal district court preliminary injunction hearing.

The Parties state that closing arguments in the preliminary injunction hearing have concluded and that the Parties’ post-hearing filings are due on September 27, 2024. The Parties further state that they have met and conferred since the conclusion of the federal hearing and jointly request that this Court continue the current recess until 21 days after the final resolution of the federal proceeding.

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III.

FTC Rule 3.41(b) permits the Administrative Law Judge to recess a Part 3 hearing “for brief intervals of the sort normally involved in judicial proceedings[.]” Continuing the present recess until 21 days after the final resolution of the federal proceeding is appropriate under Rule 3.41(b) for several reasons. First, according to the Parties, the federal district court informed the Parties that it would act expeditiously to issue its ruling on the motion for preliminary injunction. Thus, the requested continued recess is of reasonable duration and will not unduly delay resolution of this case. Second, the requested continued recess allows the Parties to react as appropriate to the federal district court’s rulings. Providing the Parties with time to streamline and focus their arguments after the federal court’s rulings allows for a more orderly hearing in this proceeding, and it will also likely reduce the expense and burden on both the Parties and non-parties.

Accordingly, the Joint Motion is **GRANTED**. The recess in the Part 3 administrative hearing, as well as all related pre-hearing deadlines, are **HEREBY CONTINUED** until 21 days after the final resolution of the federal proceeding.

ORDERED:

D M Chappell
D. Michael Chappell
Chief Administrative Law Judge

Date: September 25, 2024